REMARKS

This application has been carefully reviewed in light of the Advisory Action dated February 22, 2005 in which the Examiner refused to enter the Amendment After Final Rejection dated January 25, 2005. Claims 1 to 20, 22 to 55 and 57 are pending in the application, of which Claims 1 and 54 are independent. Reconsideration and further examination are respectfully requested.

In the Advisory Action, the Examiner indicated that the prior amendments to independent Claims 1 and 54 which replaced the word "server" with "computer" broadened the scope of the claims and that further consideration and search would be required. In response, Applicants have amended those claims back to their original recitation of a "server".

The Examiner further indicated that it was unclear if Claims 55 and 57 were dependent claims or independent claims. Applicants respectfully respond that these claims are dependent claims. See MPEP § 608.01(n), which authorizes claims of this format.

The Advisory Action further stated that Claims 55 and 57 "appear indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention," which implicates the clarity requirements of 35 U.S.C. § 112, second paragraph. Applicants agree with the Examiner's unspoken inference that it is better to resolve questions of clarity now, during prosecution, rather than later, during litigation. Accordingly, the Examiner is respectfully requested to decide whether or not a rejection under § 112 is warranted. For their part, Applicants believe that Claims 55 and

57 as written are clear; and that even if there were a question over whether the claims are independent or dependent, since both are authorized by statute, such a question does not rise to the level of unclarity that would warrant a rejection under § 112. Accordingly, since the instant Amendment resolves all issues in the Final Rejection, and otherwise amends the claims in conformity with subject matter previously indicated to be allowable, entry of the Amendment is proper and the case should be allowed.

On the other hand, if the Examiner believes that a rejection is warranted, he is respectfully requested to enter it now. Procedurally, since such a rejection would be a new rejection not necessitated by any action of the Applicants, the rejection must be non-final and prosecution on the merits reopened.

The following remarks are repeated from the unentered Amendment After Final Rejection dated January 25, 2005, for completeness of the record.

Applicants acknowledge with appreciation the continued indication of allowable subject matter in Claims 21 to 35 and 45 to 53. Based on that indication, Claim 21 has been cancelled, and the substance thereof has been incorporated into each of independent Claims 1 and 54, wherefore it is believed that all claims are now fully in condition for allowance.

In the Office Action dated November 30, 2004, all claims were rejected under 35 U.S.C. § 112, first paragraph. The subject matter forming the basis for the rejection has been cancelled from the claims, without conceding the correctness of the rejection.

The November 30, 2004 Office Action further rejected Claims 1 to 3, 5 to 7, 9 to 18, 36 to 44, 55 and 57 under 35 U.S.C. § 102(b) over the article "The Phoenix Framework: A Practical Architecture For Programmable Networks" (Yadav), Claims 4 and 8 under § 103(a) over Yadav in view of U.S. Patent 5,926,539 (Shtivelman), and Claims 19, 20 and 54 under § 103(a) over Yadav in view of U.S. Patent 6,073,184. The foregoing actions were taken without conceding the correctness of these rejections, in an effort to advance this case toward allowance.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

Attorney for Applicants
Michael K. O'Neill
Registration No. 32,622

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200

CA_MAIN 93281v1